IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1079 OF 2005
IN
FIRST APPEAL NO. 760 OF 2004.

M/s.Sadbhav Coop.Housing Society Ltd. ... Appellant.
Versus.
Smt.Sheela Bal Joshi and others. ... Respondents.

Shri Rohit P.Karhadkar i/by Smt.Vinita V.Bakre-Shastry for the Appellant.
Smt.Anjali Helekar for the Respondent No.1.
Shri R.S.Apte with Shri Mandar Limaye for Respondents Nos.4 to 10, 12, 13, 15 to 17, 21 to 23 and 25.

CORAM : ABHAY S.OKA, J.

DATED : 29th January, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. The prayer in this Application is for impleading Respondents Nos.2 to 25 as party Respondents. According to the case made out by the Applicant (Appellant in the First Appeal), the Respondents Nos.2 to 25 are the purchasers of flats which are constructed on the suit property. According to the case of the Applicant transfer in favour of the said Respondents has taken place after the suit filed in the trial Court is decided.

2. An affidavit-in-reply is filed by the 1st Respondent in which it is stated that during the pendency of the suit, there was no injunction granted in favour of the Applicant and the transaction in favour of the concerned Respondents has been effected after the

period of limitation for preferring the Appeal was over. It is also suggested in the affidavit-in-reply that some of the flats which are purchased by the Respondents are not in any way concerned with the suit property as flats are constructed on the erstwhile survey No.55/4/1 and not on the suit property.

3. The affidavit of the 1st Respondent discloses that there is an amalgamation of the suit property with the erstwhile survey No.55/4/1. No case is made out in the affidavit filed on behalf of some of the Respondents Nos.2 to 25 that certain flats are not constructed on the suit property. In my view, considering the fact that the prayer in the suit filed by the Appellant is for possession, it is necessary to implead the flat purchasers as their interest may be affected by the decree which may be eventually passed in the Appeal.

4. Hence the Application is allowed in terms of prayer clause (A). Amendment to be carried out within four weeks from today.

Judge.